

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Albert Kuperman

v.

Civil No. 06-cv-00420-JL

NH Department of
Corrections, et al.

O R D E R

The respondent's Motion for Bench Trial (document no. 43) is granted. The plaintiff/petitioner did not object to the Magistrate Judge's Report and Recommendation (document no. 6), adopted by Judge DiClerico's order of March 14, 2007 (document no. 21), limiting the claims in this case to "official capacity" claims for injunctive relief. The plaintiff cites no authority for the proposition in his objection that he is nonetheless entitled to nominal or punitive damages, and none exists. See, e.g., Hopkins v. Saunders, 199 F.3d 968, 977-78 (8th Cir. 1999) (collecting cases holding that nominal damages are barred by Eleventh Amendment immunity); Biggs v. Meadows, 66 F.3d 56, 61 (4th Cir. 1995) (collecting cases holding that punitive damages are barred by Eleventh Amendment immunity).

The limitation of the claims in this case to equitable claims also has ramifications for any fee award under 42 U.S.C. 1997e(d)(1).

The clerk shall remove this case from the jury trial calendar and schedule a status conference (in court or by telephone based on counsel's preference) at counsel's early convenience.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: January 7, 2009

cc: Nancy Sue Tierney, Esq.
Danielle Leah Pacik, Esq.